

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDALL GRIFFIN,

Plaintiff,

v.

MARY K. BERGHUIS, *et al.*,

Defendants.

Case No. 11-14876

Hon. John Corbett O'Meara
Magistrate Judge Michael Hluchaniuk

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the court is Magistrate Judge Hluchaniuk's report recommending that Defendants' motion for summary judgment be granted. In response, Plaintiff filed objections as well as motions for discovery and to appoint counsel.

This court "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. 28 U.S.C. § 636(b)(1)(C). The court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." *Id.* Having reviewed the papers, the court is persuaded that Magistrate Judge Hluchaniuk's analysis is correct and that summary judgment should be granted. Although Plaintiff seeks discovery to prove that he engaged in protected conduct, such evidence will not save his First Amendment claim, because he also has not established that a legally recognized adverse action has been taken against him. *See* Report and Recommendation at 12 ("Even if plaintiff could establish that he engaged in protected conduct by making a witness statement in support of another inmate's grievance or participating in the investigation, he has identified no adverse action taken against him.").

Accordingly, IT IS HEREBY ORDERED that Plaintiff's August 22, 2012 motions for discovery and the appointment of counsel are DENIED.

IT IS FURTHER ORDERED that Magistrate Judge Hluchaniuk's August 3, 2012 report and recommendation is ADOPTED. Defendants' January 20, 2012 motion for summary judgment is GRANTED and Plaintiff's complaint is DISMISSED WITH PREJUDICE.

SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: September 27, 2012

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, September 27, 2012, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager